

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 05-40949

MARK JAMES GABBARD, and
ANNA-MARIE GABBARD,

Chapter 7

Judge Thomas J. Tucker

Debtors.

ORDER DENYING DEBTORS' MOTION FOR RECONSIDERATION

This case is before the Court on the motion entitled "Debtors' Motion for Reconsideration," filed on May 2, 2010 (Docket # 14, the "Motion"). The Motion seeks reconsideration of Court's April 25, 2010 order entitled "Order Denying Debtors' Motion to Reopen Bankruptcy Case" (Docket # 13).

The Court has reviewed and considered the Motion, and concludes that the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

In addition, the Court notes the following. Debtor cites Fed.R.Bankr.P. 4008(a), and its language that the Court may extend that rule's deadline for filing a reaffirmation agreement "at any time." The 60-day deadline and accompanying extension-of-time language in Rule 4008(a) were added by the December 1, 2008 amendments to the Federal Rules of Bankruptcy Procedure. It is therefore questionable whether these rule provisions even can be applied in this case, which was closed in 2005.

However, even if Fed.R.Bankr.P. 4008(a) can be applied in this case, Rule 4008(a) and Fed.R.Bankr.P. 4004(c)(1)(J) contemplate that a motion to extend the deadline to file a

reaffirmation agreement can only be granted if the discharge has not yet been granted. *See* Fed.R.Bankr.P. 4008 advisory committee notes to 2008 Amendments (“Rule 4004(c)(1)(J) accommodates . . . an extension [of time for filing a reaffirmation agreement] by providing for a delay in the entry of discharge during the pendency of a motion to extend the time for filing a reaffirmation agreement.”). No such motion was filed before the discharge was entered, so the Court may not extend the deadline. And as the Court stated in its April 25, 2010 Order, no enforceable reaffirmation agreement can be made after the discharge order has been entered.

Accordingly,

IT IS ORDERED that “Debtors’ Motion for Reconsideration” (Docket # 14), is
DENIED.

Signed on May 04, 2010

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge